

REMARKS

Summary

Claims 1-10, 12-19, 28 and 29 are pending in this application. Claim 11 was previously canceled without prejudice. Claims 20-27 were previously withdrawn.

Claims 1, 7, 10, 14 and 28 have been amended. No new matter has been added.

Favorable reconsideration and allowance of the pending claims are requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 7, 10, 14 and 28 in order to facilitate prosecution on the merits.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 2, 4, 6-8, 10, 12-19, 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,317,834 to Gernaro et al. (“Gennaro”) in view of United States Patent Publication No. 2003/0005337 to Poo et al. (“Poo”). Claims 3, 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gennaro in view of Poo and further in view of Harris. Applicants respectfully traverse the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

Applicant respectfully submits that the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1-10, 12-19, 28 and 29. Therefore claims 1-10, 12-19, 28 and 29 define over the cited references whether

taken alone or in combination. For example, claim 1 has been amended to recite the following language, in relevant part:

a first processing unit to determine whether second multi-factor authentication data received via the at least first input mechanism matches a subset of the first multi-factor authentication data, the second multi-factor authentication data associated with N authentication factors of N different types where N is less than Z and greater than one;

the first processing unit to authenticate using the second multi-factor authentication data comprising the subset of the stored first multi-factor authentication data where less than Z authentication factors are available for authentication

As correctly noted in the Office Action, Gennaro does not disclose authenticating using the subset of the stored authentication data where less than Z authentication factors are available for authenticating. According to the Office Action, the missing language is disclosed by Poo at paragraph [0058]. Applicant respectfully disagrees.

Applicant respectfully submits that Poo fails to disclose the missing language of the claimed subject matter. For example, Poo at the given cite, in relevant part, teaches:

In one embodiment, optional step 270 is provided. In this embodiment, should verification module 12b malfunction and refuse to authenticate an authorized user whose fingerprint has been previously registered, the user is provided with an option to bypass the fingerprint authentication and provide a password to gain access instead.

Applicant submits that this is clearly different than the above recited teaching of amended independent claim 1.

Applicant respectfully submits that Poo, arguably teaches a workaround that allows different authentication methods to be used if other authentication methods are

broken. More particularly, the system of Poo allows for the use of a password as a form of authentication if the verification module (e.g. fingerprint scanner) should malfunction. Applicant submits that this is clearly different than using a subset of a plurality of authentication data to gain access to a system, where the subset consists of more than one of the plurality of authentication data as required by claim 1. Therefore, Poo fails to disclose, teach or suggest the missing language. Applicant submits that Gennaro and Harris also fail to teach the above recited missing language. Consequently, the cited references, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1.

For at least these reasons, Applicant submits that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 7, 14 and 28 have been amended to recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7, 14 and 28 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 1, 7, 14 and 28.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 2-6, 8-10, 12-13, 15-19 and 29 that depend from claims 1, 7, 14 and 28 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

Conclusion

It is believed that claims 1-10, 12-19, 28 and 29 are in condition for allowance. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the limitations of the independent claims and dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the claims from the cited references, taken alone or in combination, based on additional features contained in the independent or dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,
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/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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